

REMARKS

The above-identified patent application has been amended and reconsideration and re-examination are hereby requested.

The Examiner objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) because they fail to include certain reference designations.

Applicants have amended the drawings and also made corresponding amendments to the specification to overcome the objection. Applicants have amended FIGS. 1 and 2B to show elements referred to in the specification and to correct reference designations in the drawings. Applicants have amended FIG. 1 to change the reference designations of 22b to 22a and 22a to 22b, deleted OCF 25 and the arrow associated therewith at the bottom of FIG. 1 and deleted designation 12g. Applicants have moved the arrow to reference designation 12.

With respect to FIG. 2B, Applicants have added an indicia of the "update manager process 26e" and has modified the reference designations of the locked/crossed manager and the odd lot manager to 26f and 26g, respectively.

Applicants have also corrected on FIG. 2A the designation of interface 27 being interface 21. Applicants note that in FIG. 1 Applicant describes a "order collector facility" 20 and a "order collector facility process" 25 which resides in memory 22b. Applicants believes these drawings are now correct.

Applicants have also made corresponding amendments to the specification and believes the specification is now correct.

The Examiner rejected claims 11-17 under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner considers the scope of claim 11 to be unclear since the claim recited a market system while the body of claim 11, lines 2-9, recited various process steps. The Examiner further considered that "It was unclear what novel or nonobvious elements are recited (e.g., a novel/nonobvious process of using a known prior art market system, a novel/nonobvious market system or apparatus to perform a particular nove (sic)."

Applicant submits that claim 11, as presented, is proper under 35 U.S.C. 112, second paragraph. Applicant has disclosed in the specification processes which can be implemented as

methods, computer software or computer firmware and which execute or provide novel features to the invention. Thus, Applicants use of the word "process" in these claims is proper. Moreover, Applicants have not claimed process steps. The Examiner also questions what novel or nonobvious elements are recited. Applicants will point out the nonobvious and novel elements of the claims below.

Applicants have also amended claims 16 and 17 to make them depend from claim 11 and has amended claim 12 to recite the system of claim 11.

The examiner rejected claims 1-18 under 35 USC § 102(e) as being anticipated by Martyn et al.

Applicant's claim 1 recites ... receiving an order from a market participant and for the order, checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system.

The Examiner relied upon Martyn for teaching to match quotes of best bid/offer price by market participant identification. However, Martyn does not teach or suggest checking quotes of best bid/offer price based on the market participant identification. Rather, the material referenced by the examiner discloses a preferential order. A preferential order is directed to a specific market maker. Preferential orders do not teach or suggest checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system.

A preferential order is designated as such by the market participant at entry time. There is no match determined of market participant identifications associated with a quote or with a received order. Rather, to the extent that preferential orders can be construed as checking market maker identifications of quotes in the system, it is done before or as the order is entered by the action of preferencing the order. It is not done on a received order. Moreover, checking is not done to match a market participant identification representing a quote in the system which is at the best bid or best offer price in the system. Also entry of a preferential order does not require checking of a market participant identification associated with the received order, as required by claim 1.

Claim 2 recites ... matching-off the order against the one of the best bid or best offer that is at the opposite side of the market. Martyn does not suggest matching-off the order against the opposite side best bid/offer.

The Examiner relied upon Martyn for teaching matching quotes of best bid/offer price without regard to a time priority as disclosed in claim 3. As previously discussed Martyn discloses preferential orders which do not teach matching quotes of best bid/offer price. Therefore, preferential orders do not teach or suggest matching quotes of best bid/offer price without regard to a time priority as recited in claim 3.

Claim 3 recites matching-off the order without regard to a time priority of other quotes in the system, against the one of the best bid or best offer that is at the opposite side of the market. Martyn does not suggest claim 3. Specifically, Martyn does not suggest matching off the best bid or best offer with an order received from a market participant without regard to time priority, as in claim 3. Additionally, when read in conjunction with claim 1, Martyn also does not disclose checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system.

The Examiner relied upon Martyn for teaching to check the order against propriety quotes and agency quotes of the market participant as disclosed in claim 7 and 8. However, Martyn does not teach or suggest checking the order against propriety quotes and agency quotes of the market participant or receiving the internal book of the market participant. Martyn discloses the use of a short sells. A short sell allows user to accept orders the user does not currently own. Short sells do not involve checking the order against propriety quotes and agency quotes. Therefore, short sells do not teach or suggest checking the order against propriety quotes and agency quotes.

Applicant's remaining claims are patentable over Martyn for the general reasons discussed above

The examiner rejected claims 1-18 under 35 USC § 102(b), as being anticipated by Kalmus et al.

Applicant's claim 1 recites checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system. This feature is not suggested by Kalmus et al.

Nor does Kalmus et al. suggest, as in claim 2, matching-off the order against the one of the best bid or best offer that is at the opposite side of the market. Kalmus also does not suggest, as in claim 3, matching-off the order without regard to a time priority of other quotes in the system, against the one of the best bid or best offer that is at the opposite side of the market.

The Examiner relied upon Kalmus for teaching to match quotes of best bid/offer price by market participant identification as disclosed in claim 1. The Examiner contends that, "in those instances in which market maker/specialist submits an order in a security in which that party is a principal". Kalmus does not disclose matching quotes of best bid/offer price based on the market participant being a market maker or customer.

The Examiner relied upon Kalmus for teaching to rout and match-off best bids and offers without regard to time priority as disclosed in claim 3. However, Kalmus does not teach or suggest matching-off best bids and offers without regard to time. Examiner references column 5, paragraph 5. However, in those passages the reference teaches that a processor 10 first determines whether or not each received order can be executed. Each order received is tested to determine if the order qualifies for execution based on the current position of market before other post orders are tested giving the current order time priority. Examiner also refers to column 9, line 50 which discloses that a market maker can change its bid. In both instances, the system still gives time priority to the first order. Thus, Kalmus does not teach routing and matching-off best bids and offers without regard to time priority as recited in claim 3.

The Examiner relied upon Kalmus for teaching to check the order against propriety quotes and agency quotes of the market participant as disclosed in claim 7 and 8. However, Kalmus does not teach or suggest checking the order against propriety quotes and agency quotes of the market participant or receiving the internal book of the market participant.

Applicant's remaining claims are patentable over Kalmus for the general reasons discussed above

The examiner rejected claims 1-18 under 35 USC § 103 as being obvious over Gutterman et al.

The Examiner relied upon Gutterman for suggesting to match quotes of best bid/offer price by market participant identification as disclosed in claim 1. Gutterman neither describes nor suggests checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system. Column 5, line 9 does not teach or suggest using the market participant identification in anyway to match quotes of bet bid/offer price. Nowhere in the Gutterman is it taught or suggest to check the market participant identification when matching quotes. The system disclosed in Gutterman would not provide incentive for interpreting or suggesting internal matching or netting of market participant orders against a market participant's book as a means of maintaining a market in a particular security.

Gutterman does not suggest a system of matching bids/offers without regard to time priority. Gutterman discloses a conventional trading system, which executes orders based on price and first to announce the request to fill the order. Nowhere does Gutterman suggest executing the order other than based on price or time of request (e.g. first customer to announce intent to fill order to the broker).

Applicant's remaining claims are patentable over Gutterman for the general reasons discussed above.

Accordingly, claims 1-18 are now allowable over the art of record. Thus, reconsideration and reexamination are requested.

Please credit, or charge any other fees due or any deficiency in fees in connection with this response to Deposit Account No. 06-1050.

Attached is a marked-up version of the changes being made by the current amendment.

Applicant : Peter Martyn et al.
Serial No. : 09/404,518
Filed : September 23, 1999
Page : 10

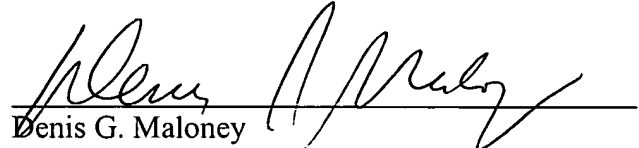
Attorney's Docket No.: 09857-030001

Applicant asks that all claims be allowed. Please apply any other charges or credits to
Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

9/6/2001


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Version with markings to show changes made

In the specification:

The paragraph beginning at page 3, line 2 was amended as follows:

Referring to FIG. 1, an electronic market 10 is shown. The electronic market 10 includes client systems 12 that access a central quote/order collector facility 20. The client systems 12 can be broker/dealer systems 12a, electronic communication networks (ECN's) 12b, market-maker(s) [marker] system(s) 12c, and other exchanges 12d. The connections can use existing Nasdaq[®] protocols such as SelectNet[®], Small Order Execution System[®] (SOES[®]), and so forth. The client systems 12 include a processor, memory and a storage device, e.g., a client workstation or personal computer (all not shown) that can include a client process to enter quotes/orders into the electronic market system. The quote/order collector facility 20 causes the order execution or order delivery systems (e.g., SOES[®] and SelectNet[®]) to deliver executions or orders to a market that is coupled to a clearing system 16 and a reporting system 18. It also causes delivery of executions or routing of orders to the ECN's 12c, depending on the status of the ECN, and routing of orders to other markets and exchanges 12d. The quote/order collector facility 20 is comprised of one or preferably a plurality of server computers generally denoted as 22 including a processor 22a, main memory 22b and storage 22c. The storage system 22c includes quote/order collector process 25 that is executed in memory 22b. In general, server 22 is a complex computer server, the details of which are not important to an understanding of the present invention. —

The paragraph beginning at page 3, line 26 was amended as follows:

The quote/order collector facility [25] (OCF) 20 collects pre-trade information in the form of quotes or orders. The distinction between a quote and an order depends on several factors. For example, each [a] market maker can send a proprietary quote i.e., a quote that represents its own trading interest or an agency quote that represents trading interest of a sponsored entity. If one proprietary quote is sent it could be considered one order. If one agency quote is sent it also could be considered one order. If an agency quote reflects an aggregation of

more than one agency order, however, the aggregate agency order could be considered a quote. Entering quotes are limited to registered market makers 12b and ECNs 12c and possible UTP Exchanges 12d. For any given stock, a registered market maker or ECN may directly enter a non-marketable order i.e., quote into the [system] quote/order collector facility (OCF) 20 on behalf of its customer account, or it may sponsor the direct entry of an order by its customer. All sponsored, quotes are sent to the quote/order collector facility 20 under the name of the sponsoring market maker or ECN. Every registered market maker or ECN will be permitted to submit an unlimited number of non-marketable quotes to the system 20.

The paragraph beginning at page 5, line 14 was amended as follows:

The order quote collector facility 20 also includes an interface 21 that couples the order collector facility 20 to a plurality of order delivery systems. For example, the interface 21 can couple the order quote collector facility 20 to an order execution system, e.g., the Small Order Execution System[®] (SOES[®]) and to a negotiation system, e.g., SelectNet[®]. The interface 21 would provide access to information contained in order flow delivered via the delivery systems to a quote/order collection process 25 described in conjunction with FIG. 2B. In general, the electrical and logical functions which comprise the interface 21 can be similar to the ones currently existing in the SOES[®]/SelectNet[®] systems. The interface 21 or the process 25 would extract information from the quotes and make that information available to the quote order collector process 25. The quote/order collector process 25 extracts information and process orders in a unified manner to allow the order collector [system] facility 20 to be a unifying point of collection of all orders which are sent to the market 10.

The paragraph beginning at page 6, line 13 was amended as follows:

Referring to FIG. 2B, the quote/order collector process ("OCP") 25 is shown. The quote/order collector process 25 provides transmission of multiple orders or quotes at multiple price levels by Quoting Market Participants to a quotation manager 26a. The quote/order manager 26a that provides a unified point of entry of quotes and orders from disparate delivery systems into the quote/order collector facility 20 to access quotes/orders displayed (as either attributable or non-attributable) in both the aggregate montage and current quote montage. The

quote/order manager 26a manages multiple quotes/orders and quotes/orders at multiple price levels and uses a montage manager 26b to display (either in the Aggregate montage or in the current quote montage) the orders/quotes consistent with an order's/quote's parameters. The order collector process 25 also includes an internal execution process manager 26c to match off executions for quoting market participants at the best bid/offer. The order collector system 20 also includes an order routing/execution manager 26d provides a single point delivery of executions or routing of orders, which substantially eliminates potential for dual liability. That is, order collector process 25 will maintain the order routing and executions functionality available in the SOES[®] and SelectNet[®] systems. The order collector process 25 also includes a quote update manager 26e, a lock/cross [quote] manager 26f, and an odd lot execution manager 26g.

The paragraph beginning at page 10, line 15 was amended as follows:

For example, if MMA sends system 20 all of its quotes/orders and is at the best bid of \$20 showing 4,000 shares (attributable and non-attributable), and the MMA sends OCP [OCF] 25 a 1,000 share market sell order from one its customers, OCP [OCR] 25 will examine 67a the identification of the order and if it matches the identification of the market participant who is at the best bid or offer for that security, the OCP 25 will execute 67b the order against the participant's own quote, thus matching off the order on behalf of the participant. The OCP 25 can call 67c a "request a cancel" function where a Quoting Market Participant can request cancellation of an order from system 20 before the order is actually executed. The request to cancel feature, along with the ability to leave orders with [system] OCF 20, will benefit ECNs by allowing them to participate in automatic execution and the internalized execution process 67 described above while minimizing the potential for double liability or taking on a proprietary position.